

Message Text

PAGE 01 STATE 055446

14

ORIGIN OES-05

INFO OCT-01 ISO-00 COME-00 EB-07 ERDA-07 CIAE-00 INR-07

NSAE-00 L-03 /030 R

DRAFTED BY OES/APT/SEP:WAROOT:GEM

APPROVED BY OES/APT/SEP:WAROOT

EUR/SOV:WVEALE

COMMERCE:SPARTRIDGE

----- 030434

R 060326Z MAR 76

FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

UNCLAS STATE 055446

E.O. 11652: N/A

TAGS: TGEN, UR

SUBJECT: S&T: INTELLECTUAL PROPERTY 01.05

REF: MOSCOW 3337 AND PREVIOUS

R. TENNEY JOHNSON REQUESTS EMBASSY PASS FOLLOWING TO
ARTEM'YEV:

1. I AM PLEASED THAT APRIL 11 HAS NOW BEEN CONFIRMED
AS THE ARRIVAL DATE FOR YOUR DELEGATION'S VISIT TO THE
US.

2. WE AGREE WITH YOUR SUGGESTION CONTAINED IN YOUR
LETTER DATED 4 FEBRUARY TO EXPAND THE AGENDA FOR THE
APRIL MEETING BY INCLUDING A DISCUSSION OF THE FURTHER
ACTIVITIES OF THE WORKING GROUP. IN THIS CONNECTION, WE
SUGGEST AS AN AGENDA ITEM THE ROLE OF THE WORKING GROUP IN
RESOLVING PROBLEMS ENCOUNTERED BY OTHER WORKING GROUPS IN
ACQUIRING UNPUBLISHED DATA AND DOCUMENTS RELATING TO
COOPERATIVE ACTIVITIES.

UNCLASSIFIED

PAGE 02 STATE 055446

3. WITH RESPECT TO THE MAIN AGENDA ITEM, STATEMENT
GOVERNING INVENTIONS FOR INCLUSION IN THE IMPLEMENTING

PROCEDURES FOR THE STATEMENT OF GUIDING PRINCIPLES ON

INTELLECTUAL PROPERTY, WE HEREBY PRESENT THE US
PROPOSAL FOR DISCUSSION AT OUR MEETING:

1.1 "A PATENT OR INVENTOR'S CERTIFICATE SUBJECT TO THE PROVISIONS OF PARAGRAPH 3 OF THE STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL PROPERTY" SHALL MEAN A PATENT OR INVENTOR'S CERTIFICATE WHICH IS OWNED OR CONTROLLED BY A COOPERATING SIDE AT THE TIME OF OR PRIOR TO THE COMMENCEMENT OF A COOPERATIVE ACTIVITY, OR AS A RESULT OF RELATED BUT INDEPENDENT CONCURRENT WORK. EACH COOPERATING SIDE WILL MAKE REASONABLE EFFORTS TO INFORM THE OTHER COOPERATING SIDE OF PATENTS OR INVENTOR'S CERTIFICATES IT OWNS OR CONTROLS IN THE COUNTRY OF THE OTHER COOPERATING SIDE AS A RESULT OF RELATED BUT INDEPENDENT CONCURRENT WORK. THE COOPERATING SIDE WHICH OWNS OR CONTROLS "A PATENT OR INVENTOR'S CERTIFICATE SUBJECT TO THE PROVISIONS OF PARAGRAPH 3 OF THE STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL PROPERTY" WILL, UPON REQUEST, PROMPTLY ISSUE A ROYALTY-FREE LICENSE TO THE OTHER COOPERATING SIDE LIMITED FOR USE ONLY IN, AND DURING THE PERIOD OF, THE COOPERATIVE ACTIVITIES.

1.2(A) "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY", GOVERNED BY THE PROVISIONS OF PARAGRAPH 4 OF THE STATEMENT OF GUIDING PRINCIPLES ON INTELLECTUAL PROPERTY, SHALL MEAN AN INVENTION WHICH WAS CREATED IN THE COURSE OF OR UNDER ANY COOPERATIVE ACTIVITY AS DEFINED SPECIFICALLY BY JOINT GROUPS WORKING UNDER AN AGREEMENT FOR COOPERATION. IT IS UNDERSTOOD THAT THIS TERM INCLUDES, BUT IS NOT LIMITED TO: (A) AN INVENTION CREATED JOINTLY BY TWO OR MORE PERSONS, AT LEAST ONE OF WHOM IS EMPLOYED BY ONE COOPERATING SIDE AND AT LEAST ANOTHER OF WHOM IS EMPLOYED BY THE OTHER COOPERATING SIDE, WITHOUT REGARD TO WHERE THE INVENTION WAS MADE; AND (B) AN INVENTION

PAGE 03 STATE 055446

CREATED BY PERSON(S) EMPLOYED BY ONE OF THE COOPERATING SIDES PROVIDED THESE PERSON(S) ARE WORKING PURSUANT TO A COOPERATIVE ACTIVITY.

1.2(B) AN INVENTION SUBJECT TO THE PROVISIONS OF PARAGRAPH 1.2(A) OF THESE IMPLEMENTING PROCEDURES SHALL BE REPORTED EXPEDITIOUSLY BY THE INVENTOR(S) IN A "REPORT OF INVENTION" TO THE RESIDENT WORKING GROUP CHAIRMAN OF THE COOPERATIVE ACTIVITY INDICATING THE DATE OF THE INVENTION, IDENTIFYING THE INVENTOR(S), AND INCLUDING DRAWINGS, CALCULATIONS, AND OTHER DATA WHICH ARE NECESSARY TO AN UNDERSTANDING OF THE INVENTION.

1.2(C) THE RESIDENT WORKING GROUP CHAIRMAN OF THE

COOPERATIVE ACTIVITY IN WHICH AN INVENTION IS SET FORTH IN A "REPORT OF INVENTION" SHALL SEND TO THE NON-RESIDENT CHAIRMAN OF THAT WORKING GROUP, WITHIN ONE (1) MONTH OF THE DATE OF RECEIPT OF THE "REPORT OF INVENTION" BY THE RESIDENT WORKING GROUP CHAIRMAN, A COPY OF THE "REPORT OF INVENTION". EACH WORKING GROUP CHAIRMAN SHALL PROMPTLY NOTIFY THE OTHER WORKING GROUP CHAIRMAN WHETHER OR NOT AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE HAS BEEN FILED, THE STATUS THEREOF INCLUDING THE ACTUAL FILING DATE, AND PROVIDE THE OTHER WORKING GROUP CHAIRMAN WITH A COPY OF THE APPLICATION AND SHALL KEEP THE OTHER WORKING GROUP CHAIRMAN FULLY INFORMED AS TO ALL ACTIONS TAKEN THEREIN.

1.3 EACH COOPERATING SIDE SHALL DECIDE WHETHER AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE ON "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" IS TO BE FILED IN ITS OWN COUNTRY, AND SHALL DETERMINE THE ALLOCATION OF RIGHTS IN ITS OWN COUNTRY IN RESPECT OF SUCH AN INVENTION. EACH COOPERATING SIDE SHALL PROMPTLY TRANSMIT TO THE OTHER COOPERATING SIDE, UPON REQUEST, ALL APPROPRIATE PAPERS AND PROPERLY EXECUTED DOCUMENTS WHERE NECESSARY FOR THE FILING OF AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE AND THE ALLOCATION OF RIGHTS ON SUCH AN INVENTION IN THE COUNTRY OF THE OTHER COOPERATING SIDE.

UNCLASSIFIED

PAGE 04 STATE 055446

1.4(A) DECISIONS CONCERNING FILING APPLICATIONS FOR THE PROTECTION OF "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" IN THIRD COUNTRIES, AND MAINTAINING SUCH APPLICATIONS OR RESULTING PATENTS IN FORCE, AND THE ALLOCATION OF RIGHTS UNDER SUCH INVENTIONS IN THIRD COUNTRIES, SHALL BE MADE BY AGREEMENT BETWEEN THE COOPERATING SIDES WHEREVER POSSIBLE. IF AGREEMENT CANNOT BE REACHED UNDER THIS PARAGRAPH WITHIN THREE (3) MONTHS OF THE FIRST FILING OF AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE IN THE COUNTRY OF EITHER COOPERATING SIDE, THEN THE PROVISIONS OF PARAGRAPHS 1.4(B) AND (C) OF THESE IMPLEMENTING PROCEDURES SHALL APPLY, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS 1.5(B) AND 1.5(C).

1.4(B) FOR "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" CREATED BY PERSON(S) EMPLOYED BY ONE OF THE COOPERATING SIDES, THE COOPERATING SIDE BY WHOM THE INVENTOR(S) WAS EMPLOYED (HEREINAFTER FOR THIS PARAGRAPH, THE FIRST COOPERATING SIDE) SHALL HAVE THE INITIAL OPTION TO ACQUIRE ALL RIGHT, TITLE AND

INTEREST IN AND TO SUCH INVENTION IN THIRD COUNTRIES,

SUBJECT TO THE GRANT TO THE OTHER COOPERATING SIDE (HEREINAFTER FOR THIS PARAGRAPH, THE SECOND COOPERATING SIDE) OF A NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH THE RIGHT TO GRANT SUBLICENSES FOR SUCH INVENTION IN THIRD COUNTRIES. IF THE FIRST COOPERATING SIDE DECLINES TO EXERCISE THIS OPTION WITHIN SIX (6) MONTHS OF THE FIRST FILING OF AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE IN THE COUNTRY OF EITHER COOPERATING SIDE, THEN THE SECOND COOPERATING SIDE SHALL HAVE THE RIGHT TO ACQUIRE THE RIGHT, TITLE AND INTEREST IN SUCH INVENTION IN THIRD COUNTRIES SUBJECT TO THE GRANT TO THE FIRST COOPERATING SIDE OF A NONEXCLUSIVE, IRREVOCABLE, ROYALTY-FREE LICENSE WITH THE RIGHT TO GRANT SUBLICENSES IN THIRD COUNTRIES.

1.4(C) FOR "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" CREATED JOINTLY BY TWO OR MORE PERSONS, AT LEAST ONE OF WHOM IS EMPLOYED BY ONE UNCLASSIFIED

PAGE 05 STATE 055446

COOPERATING SIDE AND AT LEAST ANOTHER OF WHOM IS EMPLOYED BY THE OTHER COOPERATING SIDE, BOTH SIDES SHALL ACQUIRE ALL RIGHT, TITLE AND INTEREST TO SUCH INVENTION IN THIRD COUNTRIES. EITHER SIDE MAY FILE AN APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE FOR SUCH INVENTION. HOWEVER, BOTH SIDES SHALL BE FREE TO GRANT LICENSES UNDER ANY PATENT OR INVENTOR'S CERTIFICATE FOR SUCH INVENTION IN THIRD COUNTRIES.

1.4(D) EACH COOPERATING SIDE SHALL PROMPTLY TRANSMIT, UPON REQUEST, ALL APPROPRIATE PAPERS AND PROPERLY EXECUTED DOCUMENTS WHERE NECESSARY FOR THE OTHER COOPERATING SIDE TO CARRY OUT THE PROVISIONS OF PARAGRAPH 1.4 OF THESE IMPLEMENTING PROCEDURES. EACH COOPERATING SIDE SHALL NOTIFY THE OTHER COOPERATING SIDE OF THE COUNTRIES WHERE APPLICATION(S) FOR PATENTS OR INVENTOR'S CERTIFICATES HAVE BEEN FILED, THE STATUS THEREOF, AND PROVIDE THE OTHER COOPERATING SIDE WITH A COPY OF EACH APPLICATION FILED AND SHALL KEEP THE OTHER COOPERATING SIDE FULLY INFORMED AS TO ALL ACTIONS TAKEN THEREIN AND OF THE PATENTS GRANTED.

1.5(A) EACH COOPERATING SIDE SHALL BEAR THE COSTS FOR PREPARING, FILING, PROSECUTING AND MAINTAINING ANY APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE ON "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" IN ITS OWN COUNTRY. EACH COOPERATING SIDE SHALL ALSO BEAR THE COSTS FOR MAINTAINING ANY RESULTING PATENT IN FORCE IN ITS OWN COUNTRY.

1.5(B) THE ALLOCATION OF COSTS FOR PREPARING, FILING,

PROSECUTING AND MAINTAINING ANY APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE IN ANY THIRD COUNTRY ON "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" SHALL BE DETERMINED WHEREVER POSSIBLE AS PART OF THE AGREEMENT BETWEEN THE COOPERATING SIDES REFERRED TO IN PARAGRAPH 1.4(A) OF THESE IMPLEMENTING PROCEDURES. IF AGREEMENT CANNOT BE REACHED ON ALLOCATION OF THESE COSTS, THEN THESE COSTS SHALL BE BORNE EQUALLY BY THE COOPERATING SIDES UNLESS A COOPERATING SIDE ELECTS NOT UNCLASSIFIED

PAGE 06 STATE 055446

TO PARTICIPATE IN ANY DESIGNATED APPLICATION, IN WHICH EVENT, THE COOPERATING SIDE MAKING SUCH ELECTION SHALL HAVE NO RIGHTS THEREUNDER OF ANY KIND WHATSOEVER, INCLUDING NO RIGHTS ASSOCIATED WITH PARAGRAPHS 1.4(B) AND (C) OF THESE IMPLEMENTING PROCEDURES. FOR PURPOSES OF THIS PARAGRAPH, IT MAY BE ASSUMED THAT A COOPERATING SIDE ELECTS NOT TO PARTICIPATE IN ANY DESIGNATED APPLICATION IF SUCH SIDE, WITHIN THREE (3) MONTHS AFTER RECEIPT OF A WRITTEN REQUEST TO BEAR COSTS EQUALLY, FAILS TO RESPOND IN WRITING TO SUCH REQUEST.

1.5(C) IF A COOPERATING SIDE FILING AN APPLICATION IN A THIRD COUNTRY FOR A PATENT OR INVENTOR'S CERTIFICATE FOR "AN INVENTION ORIGINATED IN CONNECTION WITH ANY COOPERATIVE ACTIVITY" DECLINES TO MAINTAIN THE APPLICATION OR RESULTING PATENT IN FORCE, IT SHALL INFORM THE OTHER COOPERATING SIDE AT LEAST THREE (3) MONTHS PRIOR TO THE EXPIRATION DATE FOR THE PAYMENT OF MAINTENANCE FEES AND SHALL TRANSFER THE OWNERSHIP OF THE APPLICATION OR RESULTING PATENT TO THE OTHER COOPERATING SIDE, IF REQUESTED. THE COOPERATING SIDE DECLINING TO MAINTAIN THE APPLICATION OR RESULTING PATENT IN FORCE SHALL RETAIN NO RIGHTS THEREUNDER OF ANY KIND WHATSOEVER. THE PROVISIONS OF THIS PARAGRAPH SHALL ONLY APPLY TO APPLICATIONS OR RESULTING PATENTS IN WHICH NEITHER PARTY WAS PREVIOUSLY PRECLUDED BY AGREEMENT OR BY PARAGRAPH 1.5(B) OF THESE IMPLEMENTING PROCEDURES FROM OBTAINING ANY RIGHTS IN THE PARTICULAR THIRD COUNTRY.

1.6(A) INFORMATION IN THE POSSESSION OF ONE COOPERATING SIDE RESULTING FROM COOPERATIVE ACTIVITIES AS DEFINED SPECIFICALLY BY JOINT GROUPS WORKING UNDER AN AGREEMENT FOR COOPERATION SHALL BE MADE PROMPTLY AVAILABLE TO THE OTHER COOPERATING SIDE. THERE SHALL BE NO RESTRICTIONS ON USE OR PUBLICATION OF THIS INFORMATION EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS 1.6(B) AND 1.6(C) OF THESE IMPLEMENTING PROCEDURES.

1.6(B) THE CONFIDENTIALITY OF KNOW-HOW AND TRADE SECRETS WHICH ARE (A) FURNISHED BY ONE COOPERATING SIDE TO THE OTHER COOPERATING SIDE FOR USE UNDER A

UNCLASSIFIED

PAGE 07 STATE 055446

COOPERATIVE ACTIVITY, (B) CLEARLY DESIGNATED AS CONFIDENTIAL AT THE TIME THEY ARE FURNISHED, AND (C) OWNED OR CONTROLLED BY A COOPERATING SIDE AT THE TIME OF OR PRIOR TO COMMENCEMENT OF A COOPERATIVE ACTIVITY, OR AS A RESULT OF OTHER ACTIVITIES OUTSIDE OF COOPERATIVE ACTIVITIES AS DEFINED SPECIFICALLY BY JOINT GROUPS WORKING UNDER AN AGREEMENT FOR COOPERATION, SHALL BE RESPECTED. THE RECEIVING COOPERATING SIDE SHALL NOT USE KNOW-HOW AND TRADE SECRETS REFERRED TO IN THIS PARAGRAPH OUTSIDE OF THE COOPERATIVE ACTIVITY NOR MAKE THEM PUBLIC WITHOUT THE CONSENT OF THE FURNISHING COOPERATING SIDE UNLESS THEY ARE: (A) KNOWN BY THE RECIPIENT COOPERATING SIDE AT THE TIME THEY ARE FURNISHED; OR (B) PUBLICLY KNOWN OR GENERALLY AVAILABLE EITHER AT THE TIME THEY ARE FURNISHED OR THEREAFTER; OR (C) RECEIVED FROM A PARTY OTHER THAN A COOPERATING SIDE. IF KNOW-HOW AND TRADE SECRETS REFERRED TO IN THIS PARAGRAPH BECOME PUBLICLY KNOWN OR GENERALLY AVAILABLE AS A RESULT OF A BREACH OF CONFIDENCE BY THE RECIPIENT COOPERATING SIDE, THE RECIPIENT COOPERATING SIDE SHALL NOT USE THE KNOW-HOW AND TRADE SECRETS OUTSIDE OF THE COOPERATIVE ACTIVITY. SUBJECT TO THE EXCEPTIONS HEREIN AND AS OTHERWISE PROVIDED IN PARAGRAPH 1.6(C) OF THESE IMPLEMENTING PROCEDURES, INFORMATION RESULTING FROM ANY COOPERATIVE ACTIVITY SHALL BE FREELY AND PROMPTLY AVAILABLE TO BOTH COOPERATING SIDES FOR USE OR PUBLICATION.

1.6(C) INFORMATION SET FORTH IN A "REPORT OF INVENTION" MAY BE PUBLISHED WORLDWIDE BY EITHER COOPERATING SIDE UPON APPLICATION FOR A PATENT OR INVENTOR'S CERTIFICATE IN ANY COUNTRY. IN ADDITION, THIS INFORMATION MAY BE MADE PUBLIC THREE (3) MONTHS AFTER THE DATE BOTH COOPERATING SIDES RECEIVE THE "REPORT OF INVENTION" UNLESS ONE OF THE COOPERATING SIDES REQUESTS IN WRITING THAT PUBLICATION OR PUBLIC USE BE WITHHELD AN ADDITIONAL SIX (6) MONTHS TO PERMIT THE FILING OF AN APPLICATION FOR PATENT OR INVENTOR'S CERTIFICATE.

4. WE WOULD OF COURSE APPRECIATE ANY COMMENTS ON THIS US PROPOSAL YOU MAY CARE TO MAKE BEFORE THE MEETING AS UNCLASSIFIED

PAGE 08 STATE 055446

WELL AS AT THE MEETING. KISSINGER

UNCLASSIFIED

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 15 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MEETING AGENDA, INTELLECTUAL PROPERTY, SCIENTIFIC COOPERATION, SCIENTIFIC VISITS, MEETING DELEGATIONS, TECHNOLOGICAL EXCHANGES, PATENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE055446
Document Source: ADS
Document Unique ID: 00
Drafter: OES/APT/SEP:WAROOT:GEM
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D760086-0721
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603116/baaaeohq.tel
Line Count: 323
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN OES
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 26 AUG 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 AUG 2004 by meiw>; APPROVED <03 DEC 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: S&T: INTELLECTUAL PROPERTY 01.05
TAGS: TGEN, UR, US
To: MOSCOW
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006